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BY HAND

William Roberts, Esq.
Copyright Office
Library of Congress
James Madison Memorial Building
Room LM-403
101 Independence Avenue, S.E.
Washington, D.C. 20540

Re: Noncommercial Educational Broadcasting
Compulsory License, Docket No. 96-6 CARP NCBRA

Dear Bill:

We write to the Office solely in order to correct a misstatement of the facts made in Broadcast Music, Inc.'s ("BMI") Reply In Further Support of Its Motion to Extend the Precontroversy Discovery Schedule in This Proceeding Vis-A-Vis ASCAP, filed with the Office on November 25, 1997.

At page 2 of BMI's Reply, BMI complains that, without prior consent, ASCAP deferred serving BMI with certain "elements of its direct case" because of ASCAP's concerns regarding confidentiality, notwithstanding that a Protective Order had been already entered in the proceeding on consent of BMI and ASCAP.

BMI then erroneously states: "During those negotiations ASCAP agreed that it would not have the right to withhold documents from BMI's counsel of record, and the Protective Order contained no such provision."

Contrary to that erroneous statement by BMI, ASCAP's counsel never conceded in that Protective Order or its negotiations that "it [i.e., ASCAP] would not have the right to withhold documents from BMI's counsel of record." Indeed, the Protective Order is not silent as BMI contends: it in fact contradicts BMI's complaint. The Protective Order contains several provisions which expressly reserve the rights of the parties (including ASCAP) to seek protections in addition to those contained in the Protective Order. In its letter of

September 30, 1997 to Nanette Petruzelli, ASCAP reserved its right to seek additional protections if ASCAP was unable to reach agreement with BMI regarding the dissemination of highly sensitive and confidential information.

Paragraph 1.b. of the Protective Order (accepted by the Office by Order dated October 1, 1997) provides:

"In the event that particular documents or disclosure to particular parties necessitates protections additional to those provided herein, nothing in this Protective Order shall limit any party's right to seek such additional protections from the CARP or the Librarian of Congress consistent with the rules of the Copyright Office. . . ."

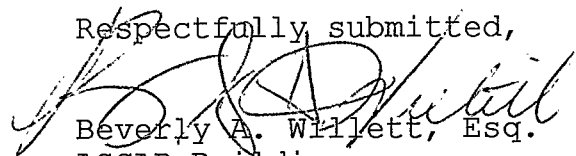
Paragraph 3.b. of the Protective Order also states:

"A Producing Party may request the CARP or the Copyright Office, as applicable, to disallow access to Confidential Protected Materials to a representative designated by a Reviewing Party. Pending a decision on such request, the individuals so designated shall not be considered Authorized Representatives."

Finally, paragraph 11 of the Protective Order also provides:

"Each party governed by the Protective Order has the right to seek changes in it as appropriate from the CARP, Librarian of Congress, or the courts upon notice and reasonable opportunity to be heard by any Producing Party whose interest may be affected by such change. In addition, the CARP may change this order upon determination that the change is appropriate in the interests of justice or necessary for the orderly conduct of the proceeding. The parties reserve the right to request an opportunity to be heard by the CARP before any such determination to change the terms of this order is made."

Respectfully submitted,



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